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10/529,665	03/29/2005	David A. Bell	GB 020169	8536

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EXAMINER

HUYNH, SON P

ART UNIT	PAPER NUMBER
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2623

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/529,665	Applicant(s) BELL ET AL.	
	Examiner Son P. Huynh	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/3/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. Claims 11-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Pages 52-53 of the interim guideline stated a computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory.

Claims 11-13 recites "a computer program product comprising..."; the "computer program product" is not necessary a computer readable medium, the "instructions" is not necessary a computer program encoded in the computer readable medium.

Therefore, the claimed "computer program product comprising instructions..." does not necessary defines structural and functional interrelationships between the computer readable medium and the rest of the computer which permit the computer program's functionality of the realized, and is thus non statutory.

In addition, page 55 of the interim guideline stated all signals and/or carrier wave are non statutory. Therefore, the computer program product supplied in form of a record carrier or in electronic form over a network as claimed in claims 11-13 are non-statutory.

Claim Objections

2. Claims 1-10 are objected to because of the following informalities:

Claim 1, line 3, recites "a one user device" should be replaced as -- one user device—

Appropriate correction is required

Claim Rejections - 35 USC § 112

3. Claims 11-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 recites "a computer program product...." fails to particularly point out and distinctly claims the subject matter which applicant regards as the invention. The claim is interpreted as best understood as corresponding to the method steps as recited in claim 1.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Livonen (US 7,246,367 B2).

Regarding claim 1, Livonen discloses a method for controlling the output of common media content on a group of user devices (e.g., control playback of video and/or audio recording on a group of user terminals - see include, but are not limited to, abstract), the method comprising the steps of:

generating at one user device of the group control instructions for governing the output of multimedia content at other user devices of the group in communication with the one user device (e.g., generating start playback request or change playback position at one of the user terminal and send the request to all user terminals in the group - see include, but are not limited to, figures 1, 3-5, col. 2, lines 7-55, col. 5, line 16-col. 7, line 67);

transmitting the control instructions from one device to the other user devices (transmitting the start playback request, change position request, etc. from the user terminal generated the request to all user terminals - see include, but are not limited to, figures 1, 3-5, col. 2, lines 7-55, col. 5, line 16-col. 7, line 67);

receiving at each of the other user devices the control instructions (receiving start playback request, change position request, etc. at each of the other user terminals - figures 1, 3-5, col. 2, lines 7-55, col. 5, line 16-col. 7, line 67);

controlling the output of media content at that other device under command of the control signals so as to facilitate output of common multimedia content at each other user device of the group in substantially synchronized manner (playback to recording at position according to the request at all user terminals in synchronized manner within the group - figures 1, 3-5, col. 2, lines 7-55, col. 5, line 16-col. 7, line 67).

Regarding claim 2, Livonen discloses the method as discussed in the rejection of claim 1. Livonen further discloses providing common multimedia content to the other user devices from the one user device (providing the recording from one user terminal to other user terminals in the group - see include, but are not limited to, col. 5, lines 8-15, col. 7, lines 55-65).

Regarding claim 3, Livonen further discloses providing the common multimedia content from a remote source (e.g., providing recordings from server or recording database - figure 1, col. 5, lines 16-65).

Regarding claim 4, Livonen further discloses providing to at least one of the user devices at least a portion of the multimedia content in advance of the time such multimedia content is required for output and storing that portion of multimedia content

for use by the at least one user device (at least part of the recording is transmitted to the terminals prior to the start of the playback of the recording... see include, but are not limited to, col. 5, lines 7-65).

Regarding claim 5, Livonen further discloses receiving at control means of the one user device control instructions generated within the device (e.g., receiving at the user device of subscriber a control instruction such as start playback, change playback position command, etc. generated within the user terminal in question - see include, but are not limited to, figures 1, 3-5, col. 2, lines 7-55, col. 5, line 16-col. 7, line 67);

controlling the output of media content at the one device under command of the control instructions so as to facilitate output of the common media content at the one device in substantially synchronized manner in comparison with output of the media content at the other user device or devices of the group – see include, but are not limited to, figures 1, 3-5, col. 2, lines 7-55, col. 5, line 16-col. 7, line 67 and discussion in the rejection of claim 1).

Regarding claim 6, Livonen further discloses the multimedia content comprises any one member of the group comprising video sequences or a collection of photographic images (e.g., an individual user can also produce the recording, such as a video clip and send it to the server or other user terminals - see include, but are not limited to, col. 5, lines 7-15; col. 7, line 33-col. 8, line 3).

Regarding claim 7, Livonen further discloses the control instructions comprises representation of any member of the group of commands comprising stop, play, fastforward, rewind, etc. (the command comprises start playback, rewind the recording, or change to new position of playback, etc. - see include, but are not limited to, col. 5, line 1-col. 7, line 65).

Regarding claim 8, Livonen further discloses the control instructions are transmitted over a communication link established by a wireless LAN, Bluetooth wireless, GPRS and/or 3G based communication based system (the commands are transmitted to user terminals by a TCP/IP network, a cellular network, Bluetooth, WLAN, etc. - see include, but are not limited to, col. 3, lines 13-17, col. 8, lines 39-43).

Regarding claim 9, Livonen discloses an apparatus having technical features of a user users of any one or more of claims 1 to 8 are configured to performed as the user device (e.g., user terminal - see include, but are not limited to, figure 1 and discussion in any one of the rejection of claims 1 to 8).

Regarding claim 10, the limitations of the system as claimed in any one of claim 1 to 8 correspond to the limitations of the method as claimed in any one of claims 1 to 8 and are analyzed as discussed with respect to the rejection of any one of claims 1 to 8.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Livonen (US 7,246,367 B2).

Claim 11 is directed toward embody the method of claim 1 in "computer program product". It would have been obvious to embody the procedures of Livonen discussed with respect to claim 1 in a "computer program product" in order that the instructions could be automatically performed by a processor.

Regarding claims 12-13, Livonen discloses the system is computer base with devices connected over a communication network. The devices in the system user software to perform functions and data are sent to the devices over a communication network (see include, but are not limited to, figure 1, col. 3, lines 10-43, col. 7, line 55-col. 8, line 48). It would have been obvious to one of ordinary skill in the art to incorporate in Livonen that computer program product is supplied independently of any computer hardware in form of a record carrier or in electronic from over a network in order to yield predictable results such as improve convenience to user.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Osawa et al. (US 5,956,037) discloses video information providing/receiving system.

Kinney et al. (US 5,808,662) discloses synchronized interactive playback digital movies across a network.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Son P. Huynh

January 17, 2008

A handwritten signature in black ink, appearing to be 'Son P. Huynh', with a stylized, cursive script.